

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER

Case No. – OA - 611 of 2024

Dr. Sanaullah Ahmed - Vs - The State of West Bengal & Ors.

Serial No. and
Date of order

01
04.12.2024

For the Applicant : Ms. Gopa Biswas,
Mr. R. Khan,
Learned Advocates.

For the State
Respondents : None.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

Affidavit of service filed today be kept with the record.

The applicant has prayed for staying the entire operation of the recruitment process for the post of Homoeopathic Medical Officer conducted by the West Bengal Health Recruitment Board dated 29.02.2024. The Board had invited applications for the above-mentioned posts. Later, after completion of his online application, the candidate's application was rejected on the ground that the essential qualification of having a Bachelors Degree in Homoeopathy from a recognised University or Institute was not uploaded by the applicant. Ms. Biswas, learned counsel appearing on behalf of the applicant argues that though the applicant had uploaded the required documents but by an arbitrary action such application was not accepted. Attention has been drawn to the advertisement which

stipulates Bachelors Degree in Homoeopathy as an essential qualification expected from a candidate. The Tribunal finds from the copy of the online application available in this application, the applicant had uploaded his mark sheet of having a Bachelors Degree in Homoeopathy.

From the submissions of the learned counsels and the records in this application, the Tribunal has observed the following important points :-

- a) That the advertisement published on 29.2.2024 had given the time limit between 7.3.2024 till 21.3.2024 for the candidates to apply and upload their documents.
- b) The same advertisement stated that a Bachelors Degree in Homoeopathy from a recognised University/Institute will be considered as the qualification for the recruitment.
- c) From the copy of the print out of the online application filed by the applicant, it is seen that under the column “**upload mark sheet**”, the candidate uploaded his mark sheet. The mark sheet is dated 15.3.2023. It appears to be the mark sheet of the applicant of final examination conducted by West Bengal University of Health Sciences.
- d) A copy of the certificate in the application signed by the Principal In-Charge- Administrator, D.N. Dey

Homoeopathic Medical College and Hospital, Government of West Bengal certifies that the applicant in his fourth BHMS Examination, 2023 had **“passed in one chance”**. The certificate also remarks that the applicant had joined the compulsory Internship on 16.3.2023 and completed the same on 15.3.2024.

Submission of Ms. Biswas is that despite being qualified as evident from these documents, the application of the applicant was rejected arbitrarily. The copy of the rejection as presented in this application has the following sentences :-

“Candidate Status

Your Application is Rejected.

Reason of Rejection: Essential Qualification is Rejected by Administrator.

Detailed Reasons :-

Essential Qualification || A bachelor degree in Homoeopathy from a recognised University or Institute as included in the second schedule of the Homoeopathy Central Council Act, 1973 –

Rejected by the HRB Administrator

Detail Reason : Issuing date of Attempt / Chance Certificate is after the stipulated last date (21.03.2024) of final submission as per advertisement.”

From a close reading of the words in the rejection made by the Board, the Tribunal has understood that such rejection was mainly on the ground that the applicant did not possess a

Bachelors Degree which was the essential qualification. Given in the same rejection, it also shows that “Attempt/chance certificate” was submitted after the stipulated last date (21.3.2024) of final submission as per advertisement.

From the above observations, the Tribunal comes to this conclusion that the application form had required the applicant to upload only the mark sheet, which was uploaded by the applicant. This is also stipulated by internal page 4 of the advertisement appearing at para 2 of requisite qualification, it clearly shows that the following documents must be uploaded as qualification. Under this category, the sentence appearing below is mentioned :-

“.....All years Mark sheets including supplementary mark sheets, if any of a bachelor degree in Homoeopathy from a recognised University of Institute.....”.

It is clear to the Tribunal that both the advertisement as well as the application form had required the applicants to upload their mark sheets. So far the second detailed reason shown as “**attempt/chance certificate**” after the final submission on 21.3.2024 is concerned, from copy of very mark sheet relating to 4th BHMS Examination, 2023, it is evident that the applicant had cleared the examination. The mark sheet dated 15.3.2023 is well before the last date for such uploading as stipulated in the advertisement. Further, a certificate issued by the Principal In-Charge and Administrator dated 9.7.2024 also clearly certifies that the applicant had cleared his fourth BHMS Examination, 2023 in

one chance.

Thus, from the above observations, the Tribunal is not satisfied that rejection was on a valid ground. On the contrary, the reasons in the rejection order does not appear to have been correct because the mark sheets were uploaded as well the candidate had cleared his final examination in one chance. Therefore, the Tribunal not being satisfied with the reasons given for rejection of applicant's application an interim direction is given to respondent no. 5 – Secretary and Controller of Examination, West Bengal Health Recruitment Board to allow the applicant to appear for the interview for the recruitment for the post of Homoeopathic Medical Officer conducted by the West Bengal Health Recruitment Board being conducted under the Advertisement No. R/Homoeopathic Medical Officer/5/2024 Dated 29.02.2024. However, such participation does not create any right in favour of the applicant. Let this order be communicated by the applicant before the respondent no. 5. Since it is understood that the last date for interview is today i.e. 04.12.2024 and it may not be possible for the respondent authorities to hold such an interview by this date, therefore, the applicant may be called for such an interview as directed above on any other date during this month (December, 2024).

ORDER SHEET

Form No.

Dr. Sanaullah Ahmed

Vs.

Case No **OA - 611 of 2024**

THE STATE OF WEST BENGAL & OTHERS.

The matter is admitted.

Let the matter appear under the heading "Hearing" on
21.4.2025. Reply/Rejoinder, if any, in the meantime.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

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